BILL NO. 7

Government Bill

1st Session, 60th General Assembly
Nova Scotia
55 Elizabeth II, 2006

An Act Respecting the Practice of Registered Nurses

CHAPTER 21
ACTS OF 2006

AS ASSENTED TO BY THE LIEUTENANT GOVERNOR
NOVEMBER 23, 2006

The Honourable Chris A. d'Entremont
Minister of Health

Halifax, Nova Scotia
Printed by Authority of the Speaker of the House of Assembly

2007-02982/

An Act Respecting the Practice of Registered Nurses

Be it enacted by the Governor and Assembly as follows:

1 This Act may be cited as the *Registered Nurses Act*.

2 In this Act,

(a) "active-practising licence" means a licence to practise nursing issued to a person who meets the criteria for entry in the active-practising roster as set out in the regulations;

(b) "by-law" means a by-law of the College;

(c) "client" means the individual, group, community or population who is the recipient of nursing services and, where the context requires, includes a substitute decision-maker for the recipient of nursing services;

(d) "collaborative practice" means a relationship among a nurse practitioner, a physician or group of physicians, an employing organization and other health professionals who are relevant to the nurse practitioner's practice, that enables the health-care providers in this relationship to work together to use their separate and shared knowledge and skills to provide optimum client-centered care in accordance with standards of practice for nurse practitioners and the guidelines for collaborative practice teams and employers of nurse practitioners approved by the College;

(e) "College" means the College of Registered Nurses of Nova Scotia;

(f) "competence" means the ability to integrate and apply the knowledge, skills and judgment required to practise safely and ethically in a designated role and practice setting and includes both entry-level and continuing competencies;

(g) "complaint" means a notice in writing pursuant to this Act, indicating possible professional misconduct, conduct unbecoming the profession, incompetence or incapacity of a member;

(h) "Complaints Committee" means the Complaints Committee appointed pursuant to this Act;

(i) "continuing competence" means the ongoing ability of a registered nurse or a nurse practitioner to integrate and apply the knowledge, skills and judgement required to practise safely and ethically in a designated role and setting;

(j) "continuing competence program" means a program approved by the Council that focuses on promoting the maintenance and enhancement of the continuing competence of registered nurses and nurse practitioners throughout their careers;

(k) "Council" means the Council of the College;

(l) "Education Advisory Committee" means the Education Advisory Committee appointed pursuant to this Act;

(m) "electronic means" means the use of telephone, fax, television, video conferencing, cable, internet, intranet or any form of electronic or computerized communication;

(n) "entry-level competencies" means the integrated knowledge, skills and judgement expected and required of nursing students upon completion of a nursing education program;

(o) "Executive Director" means the Executive Director and Registrar of the College appointed pursuant to this Act;

(p) "former Act" means Chapter 10 of the Acts of 2001, the *Registered Nurses Act*;

(q) "hearing" means a process before the Professional Conduct Committee following the issuance of a notice of hearing where the parties lead evidence and make submissions to the Committee, but does not include the consideration by the Committee of a settlement proposal or an application for consent revocation or any proceeding before the Complaints Committee or the Fitness to Practise Committee;

(r) "human sciences" means the biological, physical, behavioural, psychological and sociological sciences;

(s) "incapacity" means the status whereby a respondent, at the time of the subject-matter of a complaint or a report pursuant to subsection 73(1), suffered from a medical, physical, mental or emotional condition, disorder or addiction that rendered the respondent unable to practise with reasonable skill or judgment or that may have endangered the health or safety of clients;

(t) "incompetence" means the display of lack of knowledge, skill or judgment in the respondent's care of a client or delivery of nursing services that, having regard to all the circumstances, rendered the respondent unsafe to practise at the time of such care of the client or delivery of nursing services or that renders the respondent unsafe to continue in practice without remedial assistance;

(u) "individual scope of practice" means the roles, functions and accountabilities that an individual is educated and authorized to perform;

(v) "investigator" means a person designated by the Executive Director to conduct or supervise an investigation into a complaint;

(w) "judge" means a judge of the Supreme Court of Nova Scotia;

(x) "legal proceeding" means any civil proceeding, discovery, inquiry, proceeding before any tribunal, board or commission or arbitration, in which evidence is or may be given, and includes an action or proceeding for the imposition of punishment by fine, penalty or imprisonment for the violation of a Provincial enactment, but does not include any proceeding or hearing conducted pursuant to this Act or the regulations;

(y) "licence" or "licence to practise nursing" means an active-practising licence, an active-practising licence with conditions or restrictions, a transitional licence, a transitional licence with conditions or restrictions, a nurse practitioner's licence, a nurse's practitioner's licence with conditions or restrictions, a temporary licence, a temporary licence with conditions or restrictions, a temporary licence (nurse practitioner) or a temporary licence (nurse practitioner) with conditions or restrictions issued in accordance with this Act and the regulations;

(z) "licensing sanction" means

(i) the imposition of conditions or restrictions on a licence by the Complaints Committee or the Professional Conduct Committee or their equivalent from another jurisdiction,

(ii) a consent reprimand ordered by the Complaints Committee or its equivalent from another jurisdiction,

(iii) a reprimand issued by the Professional Conduct Committee or its equivalent from another jurisdiction,

(iv) a suspension of a licence by the Complaints Committee or the Professional Conduct Committee or their equivalent from another jurisdiction, or

(v) a revocation of registration or licence by the Professional Conduct Committee or its equivalent from another jurisdiction;

(aa) "member" means a person whose name is entered in the Register and, for the purpose of Part III and the regulations, includes a person who holds a temporary licence or a temporary licence (nurse practitioner) at the time of an incident giving rise to a complaint;

(ab) "nurse practitioner" means a registered nurse whose name appears on the nurse practitioner roster pursuant to the regulations;

(ac) "nurse practitioner's competencies" means the integrated knowledge, skills and judgement expected and required of a nurse practitioner;

(ad) "nurse practitioner's licence" means a licence endorsed pursuant to Section 57;

(ae) "nurse practitioner program" means a university program approved by the Council that prepares registered nurses to engage in the practice of a nurse practitioner;

(af) "nursing education program" means

(i) for applicants graduating on or after December 31, 2007, a baccalaureate nursing program approved by Council that is a prerequisite for a person to have completed before taking a registration examination, and

(ii) for persons graduating prior to December 31, 2007, a nursing program approved by Council that is a prerequisite for a person to have completed before taking the registration examination;

(ag) "party" means the College or a respondent, as the context requires;

(ah) "permit" means a permit issued to a professional corporation pursuant to this Act;

(ai) "physician" means a medical practitioner licensed by the College of Physicians and Surgeons of Nova Scotia pursuant to the *Medical Act*;

(aj) "practice" means the practice of nursing or, where the context requires, the practice of a nurse practitioner;

(ak) "practice of a nurse practitioner" means the application of advanced nursing knowledge, skills and judgment in addition to the practice of nursing in which a nurse practitioner in collaborative practice may, in accordance with standards for nurse practitioners, do one or more of the following:

(i) make a diagnosis identifying a disease, disorder or condition,

(ii) communicate the diagnosis to the client and health care professionals as appropriate,

(iii) perform procedures,

(iv) initiate, order or prescribe consultations, referrals and other acts,

(v) order and interpret screening and diagnostic tests, and recommend, prescribe or reorder drugs, blood, blood products and related paraphernalia,

and also includes research, education, consultation, management, administration, regulation, policy or system development relevant to subclauses (i) to (v);

(al) "practice of nursing" means the application of specialized and evidence-based knowledge of nursing theory, health and human sciences, inclusive of principles of primary health care, in the provision of professional services to a broad array of clients ranging from stable or predictable to unstable or unpredictable, and includes

(i) assessing the client to establish the client's state of health and wellness,

(ii) identifying the nursing diagnosis based on the client assessment and analysis of all relevant data and information,

(iii) developing and implementing the nursing component of the client's plan of care,

(iv) co-ordinating client care in collaboration with other health care disciplines,

(v) monitoring and adjusting the plan of care based on client responses,

(vi) evaluating the client's outcomes,

(vii) such other roles, functions and accountabilities within the scope of practice of the profession that support client safety and quality care, in order to

(A) promote, maintain or restore health,

(B) prevent illness and disease,

(C) manage acute illness,

(D) manage chronic disease,

(E) provide palliative care,

(F) provide rehabilitative care,

(G) provide guidance and counselling, and

(H) make referrals to other health care providers and community resources,

and also includes research, education, consultation, management, administration, regulation, policy or system development relevant to subclauses (i) to (vii);

(am) "predictable" means the extent to which one can identify in advance a client's response on the basis of observation, experience or scientific reason;

(an) "primary health care" means the first level of a client's care in the health system requiring a strong foundation of community based services that enables clients to maintain and strengthen their health based on a population health model, and includes health promo-

tion and disease prevention, education, acute episodic care, advocacy, support and treatment for illness and injury, continuing care of chronic conditions, rehabilitation and palliation;

(ao) "profession" means the profession of nursing as a registered nurse or as a nurse practitioner, as the context requires;

(ap) "Professional Conduct Committee" means the Professional Conduct Committee appointed pursuant to this Act;

(aq) "professional conduct process" means the processes described in Part III and in the regulations;

(ar) "professional corporation" means one or more registered nurses incorporated pursuant to the laws of the Province for the purpose of engaging in the practice of the profession;

(as) "professional misconduct" includes such conduct or acts relevant to the profession that, having regard to all the circumstances, would reasonably be regarded as disgraceful, dishonourable or unprofessional that, without limiting the generality of the foregoing, may include

(i) failing to maintain the standards of nursing practice or standards for nurse practitioners,

(ii) failing to uphold the Code of Ethics adopted by the College,

(iii) abusing a person verbally, physically, emotionally or sexually,

(iv) misappropriating personal property, drugs or other property belonging to a client or a member's employer,

(v) inappropriately influencing a client to make or change a will or power of attorney,

(vi) wrongfully abandoning a client,

(vii) neglecting to provide care to a client,

(viii) failing to exercise appropriate discretion in respect of the disclosure of confidential information,

(ix) falsifying records,

(x) inappropriately using professional nursing status for personal gain,

(xi) promoting for personal gain any drug, device, treatment, procedure, product or service that is unnecessary, ineffective or unsafe,

(xii) publishing, or causing to be published, any advertisement that is false, fraudulent, deceptive or misleading,

(xiii) engaging or assisting in fraud, misrepresentation, deception or concealment of a material fact when applying for or securing registration or a licence to practise nursing or taking any examination provided for in this Act, including using fraudulently procured credentials, or

(xiv) taking or using the designation "registered nurse", "nurse", or any derivation or abbreviation thereof, or describing the person's activities as "nursing" in any advertisement or publication, including business cards, websites or signage, unless

the referenced activity falls within the definitions of the "practice of nursing" or the "practice of nurse practitioner" pursuant to this Act;

(at) "public representative" means a member of Council or a committee who is not a member of the College;

(au) "Register" means the Register established pursuant to this Act;

(av) "registered nurse" means a health-care practitioner whose name appears on the Register and who is licensed in the active-practising roster, the active practising with conditions or restrictions roster, the transitional licence roster or the transitional with conditions or restrictions roster;

(aw) "registered nurse re-entry program" means a program approved by Council that tests nursing knowledge and provides for a period of preceptored clinical nursing practice;

(ax) "Registration Appeal Committee" means the Registration Appeal Committee appointed pursuant to this Act;

(ay) "registration examination" means such examination or examinations as may be approved from time to time by Council in the by-laws as a prerequisite for qualification as a registered nurse;

(az) "Re-instatement Committee" means the Reinstatement Committee appointed pursuant to this Act;

(ba) "respondent" means the person who is the subject of a complaint or the subject of a Section 43 hearing;

(bb) "roster" means the record of the category of licensing established pursuant to this Act or the regulations;

(bc) "scope of practice of the profession" means the roles, functions, and accountabilities which registered nurses are educated and authorized to perform and, where the context requires, means the roles, functions and accountabilities that nurse practitioners are educated and authorized to perform;

(bd) "self-assessment tool" means any document or information prepared by a member containing a self-assessment of the member for the purpose of the continuing competence program;

(be) "settlement proposal" means a proposal for the settlement of a complaint as prescribed in the regulations;

(bf) "stable" means situations in which the client's health status can be anticipated with predictable outcomes;

(bg) "standards for nurse practitioners" means the minimal professional practice expectations for any nurse practitioner in any setting or role, approved by Council or otherwise inherent in the nursing profession;

(bh) "standards for nursing practice" means the minimal professional practice expectations for any registered nurse in any setting or role, approved by Council or otherwise inherent in the nursing profession;

(bi) "temporary licence" means a temporary licence issued pursuant to this Act;

(bj) "temporary licence (nurse practitioner)" means a temporary licence issued pursuant to this Act;

(bk) "transitional licence" means a transitional licence issued pursuant to this Act;

(bl) "unpredictable" means client health outcomes that cannot reasonably be expected to follow an anticipated path;

(bm) "unstable" means situations in which a client's health status is fluctuating, with atypical responses, where the care is complex requiring frequent assessment of the client and modification of the care plan and the client is managed with interventions that may have unpredictable outcomes or risks;

(bn) "witness" includes every person who, in the course of a legal proceeding, is examined for discovery or is cross-examined upon an affidavit made by that person, answers any interrogatories or makes an affidavit as to documents or is called upon to answer any question or produce any document, whether under oath or not.

PART I

COLLEGE

3 **(1)** The College of Registered Nurses of Nova Scotia constituted by the former Act is hereby continued as a body corporate and, subject to this Act, has the capacity, rights, powers and privileges of a natural person.

(2) The College has perpetual succession and a common seal, with power to acquire, hold, lease, mortgage and otherwise dispose of real and personal property, and may sue and be sued.

4 In order to

(a) serve and protect the public interest;

(b) preserve the integrity of the nursing profession; and

(c) maintain public confidence in the ability of the nursing profession to regulate itself,

the College shall

(d) regulate the practice of nursing and the practice of a nurse practitioner through

(i) the registration, licensing, professional conduct and other processes set out in this Act and the regulations,

(ii) the approval and promotion of a code of ethics,

(iii) the development, approval and promotion of standards for nursing practice, standards for nurse practitioners, entry-level competencies, nurse practitioner competencies and a continuing competence program;

(e) subject to clause (d), and in the public interest, advance and promote the practice of nursing and the practice of a nurse practitioner;

(f) encourage members to participate in affairs promoting the practice of nursing and the practice of a nurse practitioner, in the best interests of the public; and

(g) do such other lawful acts and things as are incidental to the attainment of the purpose and objects of the College.

5 **(1)** The Council shall govern the College and manage its affairs and may take any action consistent with this Act and the regulations that it considers necessary for the promotion, protection, interest or welfare of the College, including

(a) the setting of fees payable by applicants and members;

(b) approving the processes for establishing, revising and monitoring the annual budget;

(c) submitting to each annual general meeting of the college an audited financial statement of the College's operations for the past fiscal year;

(d) appointing an auditor for the College; and

(e) approving proposed changes to this Act, the regulations and the by-laws.

(2) Council may take any action consistent with this Act by resolution.

(3) The Council shall be composed of such number of persons as determined by the by-laws.

(4) Notwithstanding subsection (3), the number of public representatives on the Council must be not less than thirty-three per cent and not more than forty-nine per cent of the total number of persons on the Council.

(5) Persons on the Council must be elected or appointed or succeed to office in the manner prescribed by the by-laws.

(6) Notwithstanding subsection (4), a majority of the Council constitutes a quorum.

(7) Notwithstanding subsection (5), public representatives on Council continue to hold office until their successors are appointed or until such time as they are re-appointed.

6 **(1)** The Council shall appoint an Executive Director of the College and the Council shall determine the term of office and the duties of the Executive Director.

(2) The Executive Director may delegate any functions assigned to the Executive Director by this Act, the regulations or the by-laws.

(3) The Executive Director must be or must be eligible to be a member of the College.

(4) The Executive Director is an *ex officio* member of the Council.

7 The Council may make by-laws not inconsistent with this Act

(a) respecting fees payable by applicants and members as approved by Council;

(b) respecting the holding of the annual general meeting and special meetings of the College, including the notice for such meetings, the content of such meetings, the quorum, the procedures to be followed and the manner of voting;

(c) providing for the establishment of electoral districts and membership of each electoral district;

(d) respecting fees and expenses payable to persons sitting on the Council and any other committees established for the purpose of attending to the business of the College;

(e) establishing a Nominations Committee, including its composition and duties;

(f) establishing the composition and number of Council members, and the eligibility for election or appointment to Council;

(g) establishing the timing and manner of the election or appointment to Council;

(h) establishing the composition, number, time and manner of the election or appointment of the Council;

(i) respecting the terms of office of the persons sitting on the Council, the manner in which vacancies on the Council may be filled and the manner of removing Council members;

(j) prescribing the manner in which resolutions are forwarded to Council;

(k) prescribing the roles of the President of the Council and the President-elect;

(l) respecting the holding of Council meetings, including required meetings, the notice for such meetings, the quorum and procedure to be followed and the manner of voting;

(m) respecting the establishment of and quorum for committees as may be appointed by the Council, and providing for the holding and conduct of meetings of such committees;

(n) approving and regulating examinations from time to time and other matters that are a prerequisite to qualifying an individual as a registered nurse or nurse practitioner;

(o) respecting the seal of the College;

(p) respecting the location of the head office of the College;

(q) respecting the approval of forms required for the conduct of the business of the College;

(r) approving the Code of Ethics, standards for nursing practice, standards for nurse practitioners, entry level competencies and nurse practitioner competencies applicable to members;

(s) respecting the type of professional liability insurance or other form of malpractice coverage or liability protection a member must hold;

(t) respecting all other things necessary for the administration of the affairs of the College.

8 **(1)** Subject to the approval of the Governor in Council, the Council may make regulations

(a) regulating the registration, licensing, discipline and re-instatement of members as registered nurses and nurse practitioners;

(b) respecting the continuing competence program and the ability to limit the duration of a licence to practise for non-compliance with the continuing competence program;

(c) respecting the verification of members' compliance with the continuing competence program;

(d) respecting conditions for which temporary licences and temporary licences (nurse practitioner) may be issued, including designations authorized for use by holders of temporary licences and temporary licences (nurse practitioners);

(e) creating one or more rosters of licensing and prescribing the rights, privileges, qualifications and obligations of the members of each roster and prescribing the conditions for the entry and maintenance of members' names in each roster;

(f) creating categories of affiliation with the College, including honorary and student categories, and prescribing the rights, privileges, qualifications and obligations of the person in those categories and prescribing the conditions for entry and maintenance of a person's name in those categories;

(g) respecting the information to be included on the Register;

(h) respecting the revocation or suspension of licences issued pursuant to this Act and the re-instatement of such licences and allowing for conditions, limitations or restrictions to be attached to a re-instated licence;

(i) allowing for an award of costs on a solicitor-client or other basis;

(j) providing that the licence of a member be suspended without notice or investigation upon contravention of any regulation that requires the member to pay a fee, to file a document or do any other act by a specified or ascertainable date and providing for the re-instatement of a licence so suspended upon payment of such fee as determined by the Council;

(k) respecting the ability of the Executive Director, the Complaints Committee and the Professional Conduct Committee to impose a fine where members have engaged in the practice of nursing while not holding a current licence to practise;

(l) prescribing the powers and functions of the Fitness to Practise Committee and the processes and procedures to be utilized by the Committee;

(m) providing for the audits of some or all persons who hold a licence to practise nursing and the person's practice environments;

(n) prescribing legislation pursuant to Section 43, a violation of which may require a member to attend a hearing;

(o) respecting the functions, duties and powers of the Interdisciplinary NP Practice Review Committee, including the authority and process to review the practice of nurse practitioners;

(p) respecting the functions, duties and powers of the Nurse Practitioner Committee, including the authority to conduct a competence assessment of nurse practitioners;

(q) prescribing those persons or groups of persons who are authorized to engage in the practice of nursing pursuant to Section 20, and the terms and conditions of the peron's practice;

(r) prescribing the requirements and processes for incorporation of registered nurses;

(s) providing for the retention and destruction of client records maintained by a custodian appointed pursuant to this Act, and processes and procedures to be utilized by the custodian;

(t) defining any word or expression used but not defined in this Act;

(u) further defining any word or expression defined in this Act;

(v) governing such other matters as the Council considers necessary or advisable for the effective discharge of its functions or the exercise of its powers.

(2) The exercise by the Council of the authority contained in subsection (1) is regulations within the meaning of the *Regulations Act.*

PART II

REGISTRATION AND LICENSING

9 (1) The Council shall cause to be kept a Register in which the names of those persons who qualify for registration according to this Act and the regulations are recorded.

(2) The Register shall include the information required by the regulations.

(3) The Council shall also cause to be kept a record available to the public showing

(a) the name and registration number of every person authorized to engage in the practice of nursing or the practice of a nurse practitioner;

(b) any conditions or restrictions on a person's licence imposed pursuant to subsection 11(2) or 14(3), if the Executive Director determines it is in the public interest to have such conditions or restrictions available to the public; and

(c) any licensing sanctions imposed on a member that are not otherwise subject to a publication ban.

10 (1) The categories of licences shall be as set out in the regulations.

(2) Council shall cause to be maintained separate rosters for each category of licence as provided by the regulations.

(3) The name of every person who, at the coming into force of this Act, is registered pursuant to the former Act, shall be entered into the Register, but continues under any conditions or restrictions attached to the person's previous registration.

(4) An active-practising licence issued pursuant to the former Act continues as an active-practising licence under this Act until the expiration of the active-practising licence or until the active-practising licence is suspended or revoked.

(5) A temporary licence issued pursuant to the former Act continues in effect as a temporary licence under this Act until the expiration of the temporary licence or the suspension or revocation of t! temporary licence.

(6) Every active-practising licence and temporary licence that was subject to any conditions or limitations pursuant to the former Act continues to be subject to such conditions or limitations pursuant to this Act.

11 (1) The Executive Director shall issue an active-practising licence to a person who meets the criteria for entry in the active-practising roster as set out in the regulations.

(2) The Executive Director may impose conditions or restrictions on the active-practising licence with the consent of the member if such conditions or restrictions are necessary in the interest of the public.

(3) Where conditions or restrictions are imposed by the Executive Director pursuant to subsection (2), the Executive Director shall issue to the applicant an active-practising licence with conditions or restrictions.

(4) Where the Executive Director imposes conditions or restrictions pursuant to subsection (2), the conditions or restrictions are not considered to be licensing sanctions.

12 (1) Where a person fails to meet the requirements or conditions for an active-practising licence or an active-practising licence with conditions or restrictions, the Executive Director shall issue a transitional licence to a person who meets the criteria for entry on the transitional licence roster as set out in the regulations.

(2) A transitional licence issued pursuant to subsection (1) is renewable for such limited number of years as prescribed in the regulations.

(3) The Executive Director may impose conditions or restrictions on a transitional licence with the consent of the member if the conditions or restrictions are necessary in the interest of the public.

(4) Where conditions or restrictions are imposed by the Executive Director pursuant to subsection (3), the Executive Director shall issue a transitional licence with conditions or restrictions.

(5) Where the Executive Director imposes conditions or restrictions pursuant to subsection (3), the conditions or restrictions are not considered to be licensing sanctions.

13 (1) Applicants for an active-practising licence or transitional licence, with or without conditions or restrictions, shall complete the requirements of the continuing competence program in accordance with the regulations.

(2) Notwithstanding any enactment, where the continuing competence program requires the preparation of a self-assessment tool, no person is authorized to disclose or is required to disclose in a legal proceeding or in any proceeding pursuant to this Act or the regulations any information or documents relating to the content of a member's self-assessment tool without the express consent of the author or unless otherwise required pursuant to the regulations.

(3) Where a member provides a copy of the member's self-assessment tool to another person, the provision by that member of a copy of the self-assessment tool is not, by itself, consent for the purpose of subsection (2).

(4) Subject to subsection (2), a witness in a legal proceeding shall answer any question or produce any document that the witness is otherwise bound by law to answer or produce.

(5) A witness in a legal proceeding or in any proceeding pursuant to this Act or the regulations, whether or not the witness is a party to the proceeding, is excused from

(a) providing any information obtained by the witness regarding a member's self-assessment tool; and

(b) producing any document regarding a member's self-assessment tool.

(6) Subsections (2) and (5) do not apply to original medical and hospital records pertaining to a patient.

14 **(1)** Where a person

(a) fails to meet the requirements or conditions for an active-practising licence or a transitional licence, with or without conditions or restrictions as prescribed by the regulations; or

(b) is registered or licensed to practise nursing in another jurisdiction,

and it is otherwise consistent with the objects of the College but impractical to issue an active-practising licence or a transitional licence, with or without conditions or restrictions, the Executive Director, upon payment of the prescribed fee, may approve or refuse an application for a temporary licence and shall notify the applicant accordingly.

(2) A temporary licence issued pursuant to subsection (1) must be issued for a specified period of time, not to exceed six months in total.

(3) The Executive Director may impose conditions or restrictions on a temporary licence if such conditions or restrictions are necessary in the interest of the public.

(4) Where conditions or restrictions are imposed by the Executive Director pursuant to subsection (3), the Executive Director shall issue to the applicant a temporary licence with conditions or restrictions.

(5) Where the Executive Director imposes conditions or restrictions pursuant to subsection (3), such conditions or restrictions are not considered to be licensing sanctions.

(6) The College shall maintain a roster of temporary licences and a roster of temporary licences, with conditions or restrictions.

(7) The decision of the Executive Director respecting the issue of a temporary licence or a temporary licence with conditions or restrictions, is final.

15 Where an applicant

(a) has been refused registration; or

(b) has been refused an active-practising licence or a transitional licence,

the Executive Director shall give written reasons for such decision and the applicant may, by written notice, appeal that decision to the Registration Appeal Committee within thirty days of receipt of the written notice.

16 (1) The Council shall appoint a Registration Appeal Committee, the membership of which consists of one public representative, three registered nurses from the active-practising roster and one registered nurse from the nurse practitioner roster.

(2) The Council shall appoint the Chair of the Registration Appeal Committee.

(3) A majority of the Registration Appeal Committee constitutes a quorum.

(4) Notwithstanding subsection (3), where a nurse practitioner files an appeal with the Registration Appeal Committee, a quorum of the Committee must include the nurse practitioner member of the Committee.

(5) The Registration Appeal Committee shall perform such functions as are set out in this Act, the regulations and the by-laws.

(6) Each person on the Registration Appeal Committee has all the rights, powers and privileges of a commissioner appointed pursuant to the *Public Inquiries Act.*

17 (1) The Registration Appeal Committee, upon receipt of an appeal pursuant to Section 15 or 58 shall

(a) set a date for a hearing of the appeal, which must be not later than sixty days following receipt of the written notice of appeal;

(b) serve written notice of the date, time and place for the hearing of the appeal upon the appellant and the Executive Director; and

(c) advise the appellant of the right to

(i) be represented by legal counsel, a union representative or another representative at the expense of the appellant,

(ii) disclosure of any information to be provided to the Committee, and

(iii) a reasonable opportunity to present a response and make submissions.

(2) The parties to an appeal before the Registration Appeal Committee are the College and the appellant.

(3) Evidence is not admissible before the Registration Appeal Committee unless, at least ten days before the appeal, the opposing party has been given

(a) in the case of written or documentary evidence, an opportunity to examine the evidence;

(b) in the case of evidence of an expert, a copy of the expert's written report or, where there is no written report, a written summary of the evidence; and

(c) in the case of evidence of any other witness, the identity of the witness.

(4) Notwithstanding subsection (3), the Registration Appeal Committee may, in its discretion, allow the introduction of evidence that is otherwise inadmissible under subsection (3) and may make directions it considers necessary to ensure that a party is not prejudiced.

(5) In a proceeding before the Registration Appeal Committee, the parties have the right to

(a) the opportunity to present evidence and make submissions, including the right to cross-examine witnesses; and

(b) receive written reasons for a decision within a reasonable time.

(6) At a hearing before the Registration Appeal Committee, all material relied upon by the Executive Director in making the decision that is the subject of the appeal must be provided to the Committee and to the appellant.

(7) In addition to the material provided to the Registration Appeal Committee pursuant to subsection (6), either party may present additional evidence to the Committee and call witnesses.

(8) The testimony of witnesses at a hearing before the Registration Appeal Committee shall be taken under oath or affirmation.

18 (1) The Registration Appeal Committee, in accordance with the evidence it receives when hearing an appeal, may make any determination that, in its opinion, ought to have been made by the Executive Director.

(2) The Registration Appeal Committee shall give its decision in writing and send to the applicant a copy of the written decision by registered mail or personal service.

(3) The decision of the Registration Appeal Committee is final.

19 (1) Subject to the regulations, no person shall take or use the designation "Registered Nurse", "R.N.", "RN" or "Reg. N." in the Province, either alone or in combination with other words, letters or descriptions to imply that the person is entitled to practise as a registered nurse, unless that person is the holder of an active-practising licence or a transitional licence, with or without conditions or restrictions.

(2) No person shall take or use the designation "Nurse" or "nurse" or any derivation or abbreviation thereof, or shall describe the person's activities as "nursing" unless the person is

(a) a registered nurse;

(b) a holder of a temporary licence or a temporary licence (nurse practitioner), with or without restrictions or conditions;

(c) a licensed practical nurse or a graduate practical nurse pursuant to the *Licensed Practical Nurses Act*;

(d) a student enrolled in a nursing education program or a graduate or other nursing program recognized by Council, and is authorized by the administrators of the program, or otherwise authorized pursuant to the regulations, to engage in the practice of nursing;

(e) a student enrolled in a practical nursing education program approved by the College of Licensed Practical Nurses of Nova Scotia and is authorized by the administrators of the program to engage in the practice of practical nursing pursuant to the *Licensed Practical Nurses Act*; or

(f) on the coming into force of this Section, a person whose name appears on the Certified Graduate Nurses List, maintained by the College naming persons who graduated from a nursing education program but who did not meet the requirements to qualify as a registered nurse.

(3) In any advertisement or publication, including business cards, websites or signage, no person shall take or use the designation "registered nurse", "nurse", or any derivation or abbreviation thereof, or shall describe the person's activities as "nursing" unless the referenced activity falls within the definitions of the "practice of nursing" or the "practice of a nurse practitioner" pursuant to this Act.

20 (1) No registered nurse shall engage in the practice of nursing that is outside that registered nurse's individual scope of practice.

(2) Unless otherwise authorized pursuant to this Act, the regulations or any other law, no registered nurse shall practise outside the scope of practice of the profession.

(3) No person shall engage in the practice of nursing in the Province unless

(a) that person's name is entered in the Register and in the roster of active-practising members or transitional licences, with or without conditions or restrictions, and that person is the holder of an active-practising licence or a transitional licence, with or without restrictions;

(b) that person is the holder of a temporary licence;

(c) that person is a student enrolled in a nursing education program or a nurse practitioner program and is authorized by the administrators of that program to engage in the practice of nursing as part of that program;

(d) that person is a student enrolled in any other nursing program meeting criteria approved by the Education Advisory Committee, authorizing the student to engage in the practice of nursing as part of such program; or

(e) that person is permitted to engage in the practice of nursing as otherwise provided in this Act or the regulations.

21 For the purpose of this Act and the regulations,

(a) a member in the Province who is engaged in practice by electronic means to clients outside of the Province is deemed to be practising the profession in the Province;

(b) a person, other than a member, who resides outside of the Province and who engages in practice by electronic means to clients within the Province is not deemed to be practising the profession in the Province; and

(c) nothing in this Act prohibits the practice of the profession in the Province or the recovery of fees or compensation for professional services rendered as a registered nurse or a nurse practitioner by a person registered in another country, state, territory or province and whose engagement requires that person to accompany and temporarily care for a client during the period of the engagement, if that person does not represent or hold himself or herself out as a person registered pursuant to this Act.

22 (1) Subject to clause 21(c), no person shall bring an action in any court to collect fees, compensation or other remuneration for services performed as a registered nurse, unless that person was the holder of a licence to practise nursing at the time the services were performed.

(2) Subject to clause 21(c), no person shall bring an action in any court to collect fees, compensation or other remuneration for services performed as a nurse practitioner, unless that person was the holder of a nurse practitioner's licence or a temporary licence (nurse practitioner).

23 A statement certified under the hand of the Executive Director respecting the membership and entry in the appropriate roster of a person's name is admissible in evidence as *prima facie* proof of that person's entry in such roster.

24 Where the right of a person to practise as a registered nurse or nurse practitioner has been limited by the imposition of conditions or restrictions pursuant to this Act or the regulations, particulars of all conditions or restrictions imposed on that person must be noted in the records of the College and may be disclosed to the public in accordance with clause 9(3)(b) or (c).

25 The Executive Director shall annotate the Register where

(a) the person's name has been incorrectly entered;

(b) notification is received of the member's death;

(c) the registration of the member has been revoked;

(d) the Complaints Committee, as part of an informal resolution of a complaint, or the Professional Conduct Committee authorizes the resignation of a member from the Register; or

(e) the member has requested in writing and the Executive Director, as part of an informal resolution of a complaint or otherwise, has approved the resignation of the member,

and such person ceases to be a member of the College.

26 (1) The Executive Director shall cause the removal of the name of a member from the appropriate roster

(a) if the member no longer meets the criteria for entry on the relevant roster;

(b) at the request of the member, upon surrendering any licence held by the member;

(c) if the person's name has been incorrectly entered;

(d) if notification is received of the member 's death;

(e) for non-payment of fees or other assessments levied under this Act or the regulations;

(f) if the member has been suspended, for the term of the suspension;

(g) if the registration of the member has been revoked; or

(h) if the Complaints Committee, the Professional Conduct Committee or the Executive Director authorizes the resignation of a member from the Register.

(2) The name of a person removed from the appropriate roster pursuant to subsection (1)(a) to (f) must be restored upon

(a) payment of the prescribed fee; and

(b) compliance by the person with this Act and the regulations.

(3) The name of a person removed from the Register pursuant to clauses 25(d) or (e) or the appropriate roster pursuant to clause (1)(h) must only be restored if

(a) the Committee or the Executive Director authorizing the resignation of the member permitted the member the opportunity to re-apply for membership in the College; and

(b) the Re-instatement Committee determines, on such conditions or with such restrictions as it directs, that the registration or licence should be re-instated.

27 (1) Every member who is engaged in the practice of nursing must hold a current licence to practice nursing and, where such member is employed in the practice of a nurse practitioner, such person must hold a current nurse practitioner's licence or a temporary licence (nurse practitioner), with or without conditions or restrictions.

(2) Every person, other than a client, who employs a person in the practice of nursing and every agency or registry that procures employment for a person in the practice of nursing shall

(a) ensure that the person, at the time of employment and each year employed thereafter, holds a current licence to practice nursing; and

(b) where the person's employment is terminated or the person resigns because of allegations of professional misconduct, conduct unbecoming the profession, incompetence or incapacity, report the matter to the Executive Director forthwith and provide a copy of the report to the person whose employment is terminated.

(3) Every person other than a client who employs an incorporated entity engaged in the practice of nursing and every agency or registry that procures employment for an incorporated entity in the practice of nursing shall comply with the provisions of subsection (2) with respect to each registered nurse who is in the employ of the incorporated entity.

28 (1) A member who engages in the practice of nursing or the practice of a nurse practitioner outside the Province, who was subject to any disciplinary findings while outside the Province or has outstanding complaints from outside the Province, shall not engage in the practice of nursing or the practice of a nurse practitioner on the member's return to the Province before providing the Executive Director with notice of such disciplinary findings or complaints and receiving notice from the Executive Director that the member is authorized to resume the practice of nursing or the practice of a nurse practitioner in the Province.

(2) Where the Executive Director receives notice pursuant to subsection (1), the Executive Director may require the member to attend a hearing, which must be conducted in accordance with Section 43.

29 (1) Every person who

(a) knowingly furnishes false information in any application under this Act or in any statement required to be furnished under this Act or the regulations;

(b) engages in the practice of nursing or in the practice of a nurse practitioner in the Province without complying with Section 27;

(c) engages in the practice of nursing or in the practice of a nurse practitioner in violation of any condition or limitation contained in the person's licence; or

(d) otherwise contravenes this Act or the regulations,

is guilty of an offence and liable on summary conviction to a fine of not more than two thousand dollars or to imprisonment for a term of not more than six months, or to both.

(2) The provisions of the *Summary Proceedings Act* apply in addition to any penalty otherwise provided for in this Act or the regulations.

(3) All fines and penalties payable under this Act or under the *Summary Proceedings Act* as a result of a prosecution by or on behalf of the College belong to the College.

(4) Any information to be laid pursuant to this Act or pursuant to the *Summary Proceedings Act* may be laid by the Executive Director or any person authorized by the Executive Director.

(5) In a prosecution of an offence contrary to this Act or the regulations, the onus to prove that a person accused of an offence has the right to practise nursing or to practise as a nurse practitioner, or that a person comes within any of the exemptions provided by this Act, is on the person accused.

(6) Where a violation of this Act or the regulations by a person or employer continues for more than one day, the offender is guilty of a separate offence for each day that the violation continues.

(7) For the purpose of this Act or the regulations, proof of the performance by a non-member of one act in the practice of nursing is sufficient to establish that a person has engaged in the practice of nursing.

(8) For the purpose of this Act or the regulations, proof of the performance by a non-member of one act in the practice of nursing as a nurse practitioner is sufficient to establish that a person has engaged in the practice of a nurse practitioner.

30 (1) In the event of a threatened or continuing violation of this Act or the regulations, the College may apply to a judge for an injunction to restrain the person from continuing or committing the violation and the judge, where the judge deems it to be just, may grant such an injunction.

(2) A judge may, on application, grant an interim injunction pending the hearing of an application for an injunction pursuant to subsection (1) if the judge is satisfied that there is reason to believe that a person is likely to commit or is continuing to commit a violation of this Act or the regulations.

(3) A judge may make such orders as to costs as the judge considers appropriate in any proceedings pursuant to this Section.

PART III

PROFESSIONAL CONDUCT

31 (1) In accordance with the objects of the College, the professional conduct process shall seek to inhibit professional misconduct, conduct unbecoming a nurse, incompetence and incapacity by investigating, on its own initiative or on the complaints of others, alleged instances of such misconduct, conduct unbecoming a nurse, incompetence or incapacity and, where appropriate, disposing of the matter or matters in accordance with the regulations.

(2) Except where considered prejudicial to the attainment of the objects of the College, the professional conduct process must take into account the potential for the rehabilitation of the respondent.

32 Where a member of the College ceases to be registered or licensed for any reason, that person remains subject to the jurisdiction of the College for the purpose of the professional conduct process if the subject-matter of the professional conduct process arose out of the person's conduct while registered or licensed.

33 (1) The Council shall appoint a Complaints Committee comprised of such number of members and non-members as determined by the Council.

(2) The Council shall appoint a Chair and a Vice-chair of the Complaints Committee.

(3) The Vice-chair shall act as chair in the absence of the Chair.

(4) Whenever for any reason neither the Chair nor the Vice-chair are available for the purpose of subsections (5), (6) and (7), the Council may, for such purposes, appoint a member of the Complaints Committee as chair of the Committee.

(5) The Chair of the Complaints Committee shall appoint a panel of three persons from the Committee, one of whom must be a public representative, to act as the Complaints Committee for purposes of the professional conduct process.

(6) The Chair of the Complaints Committee may sit on the panel and shall act as the chair of the panel in this event.

(7) Where the Chair of the Complaints Committee is not appointed to the panel, the Chair of the Complaints Committee shall appoint a chair for the panel.

(8) Any two persons from the panel appointed pursuant to subsection (5), regardless of whether the persons are members or public representatives, constitute a quorum of the Complaints Committee.

(9) Failure of one or more Complaints Committee members to receive any notice of a meeting does not invalidate the proceedings at the meeting, and nothing precludes the members from waiving notice of meetings.

(10) All Complaints Committee decisions require the vote of a majority of the panel of the Committee appointed pursuant to subsection (5).

(11) Where a proceeding is commenced before the Complaints Committee and the term of office of any person sitting on the Committee expires, that person may remain part of the Committee until the proceeding is concluded.

34 (1) The Council shall appoint a Fitness to Practise Committee comprised of such number of members and public representatives as determined by the Council.

(2) The Council shall appoint a Chair and a Vice-chair of the Fitness to Practise Committee.

(3) The Vice-chair shall act as Chair in the absence of the Chair.

(4) Whenever for any reason neither the Chair nor the Vice-chair are available for the purpose of subsections (5), (6) and (7), the Council may, for such purposes, appoint a member of the Fitness to Practise Committee as chair of the Committee.

(5) The Chair of the Fitness to Practise Committee shall appoint a panel of three persons from the Committee, one of whom must be a public representative, to act as the Fitness to Practise Committee for purposes of the professional conduct process.

(6) The Chair of the Fitness to Practise Committee may sit on the panel and shall act as the chair of the panel in this event.

(7) Where the Chair of the Fitness to Practise Committee is not appointed to the panel, the Chair of the Committee shall appoint a chair for the panel.

(8) Any two persons from the panel appointed pursuant to subsection (5), regardless of whether the persons are members or public representatives, constitute a quorum of the Fitness to Practise Committee.

(9) Failure of one or more Fitness to Practise Committee members to receive any notice of a meeting does not invalidate the proceedings at the meeting, and nothing precludes the members from waiving notice of meetings.

(10) All Fitness to Practise Committee decisions require the vote of a majority of the panel of the Committee appointed pursuant to subsection (5).

(11) Where a matter is referred to the Fitness to Practise Committee and the term of office of any person sitting on the Committee expires, that person may remain part of the Committee until the matter is concluded.

(12) The Fitness to Practise Committee shall perform such functions as set out in this Act and the regulations.

(13) The Fitness to Practise Committee has all the powers, privileges and immunities of a commissioner appointed pursuant to the *Public Inquiries Act*.

(14) The Fitness to Practise Committee may set its own procedures for meetings.

35 (1) A complaint may be initiated by

(a) any body corporate or association;

(b) the Executive Director;

(c) a committee of the College; or

(d) any other person.

(2) Where the College and the complainant agree, a complaint may be withdrawn.

36 The Complaints Committee has all the powers conferred by this Act and the regulations in the discharge of its functions as well as the powers, privileges, and immunities of a commissioner appointed pursuant to the *Public Inquiries Act*.

37 (1) The Complaints Committee may set its own procedure for meetings and Section 43 hearings.

(2) The Complaints Committee retains jurisdiction over a matter until such time as a hearing commences before the Professional Conduct Committee or the Professional Conduct Committee or the Fitness to Practise Committee otherwise resolves the matter.

38 Upon receipt of a complaint, the complaint shall be processed in accordance with the regulations.

39 **(1)** Notwithstanding anything contained in this Act or the regulations, where a complaint involves allegations of incapacity, or where a member, in the absence of a complaint, discloses to the College that a member may be incapacitated, the Executive Director may refer the matter to the Fitness to Practise Committee in accordance with the regulations.

(2) Where a matter is referred to the Fitness to Practise Committee, the matter shall be disposed of in accordance with the regulations.

(3) The Fitness to Practice Committee or the Executive Director may refer a matter to the Complaints Committee in the circumstances set out in the regulations.

(4) Where a matter is referred by the Fitness to Practise Committee or the Executive Director to the Complaints Committee pursuant to subsection (3), the matter shall be considered a complaint and shall be processed as any other complaint pursuant to this Act.

40 With respect to any decision issued by the Complaints Committee that is available to the public pursuant to this Act or the regulations, the Committee may impose a publication ban on such portions of its decision as deemed necessary by the Committee.

41 **(1)** A complaint must be disposed of in accordance with the regulations.

(2) Where a complaint is forwarded to the Complaints Committee for disposition, the Committee shall give its decision in writing and shall send a copy of the written decision, by registered mail or personal service, to the respondent and the complainant and may send some or all of the written decision to such other persons as the Committee determines.

(3) In a proceeding before the Complaints Committee, a respondent has the right to

(a) be represented by legal counsel, a union representative or another representative;

(b) disclosure of the complaint, any written reports of the investigator provided to the Committee and any other document produced or received by the Committee; and

(c) a reasonable opportunity to present a response and make submissions.

42 **(1)** The Complaints Committee, acting in good faith and in the public interest, may, at its discretion, direct the Executive Director to

(a) suspend a licence to practise nursing or a nurse practitioner's licence;

(b) impose restrictions or conditions on a respondent's licence to practise nursing or nurse practitioner's licence;

(c) where a person does not hold a current licence, suspend the ability of the person to obtain a licence,

pending or following the completion of an investigation and lasting until the suspension, restrictions or conditions are lifted, superseded or annulled by the Complaints Committee or the Professional Conduct Committee, as the case may be.

(2) The member shall receive, forthwith, notice in writing, with reasons of a decision made pursuant to subsection (1).

(3) A member of the College who receives written notice pursuant to subsection (2) may request, in writing within thirty days, an opportunity to meet with the Complaints Committee.

(4) Where a request is received pursuant to subsection (3), the Complaints Committee shall

(a) provide an opportunity for the member of the College to meet with the Committee within ten days of the written request; and

(b) after meeting with the member, confirm, vary or terminate the suspension, restrictions or conditions imposed pursuant to subsection (1).

(5) Where a meeting is held pursuant to subsection (4), the member has the right to

(a) be represented by legal counsel, a union representative or another representative at the expense of the member;

(b) disclosure of the complaint, any written report of an investigator provided to the Complaints Committee and any other document produced or received by the Committee; and

(c) a reasonable opportunity to present a response and make submissions.

(6) Where the Complaints Committee issues an interim suspension, conditions or restrictions on a respondent's licence to practise nursing, the Committee shall provide a copy of the decision to the complainant and the respondent and shall determine whether any aspects of the Committee's decision should be provided to other affected individuals, other nursing jurisdictions, any past, present or intended employer of the respondent or the public.

43 (1) Notwithstanding anything contained in this Act or the regulations, where a person is a member or applies for registration or a licence or the renewal of a licence, and the person

(a) has been charged with, pleaded guilty to, convicted or found to be guilty of any offence in or out of Canada that is inconsistent with the proper professional behaviour of a member, including a conviction under

(i) the *Criminal Code* (Canada),

(ii) the *Controlled Drug and Substances Act* (Canada), or

(iii) such other legislation as prescribed in the regulations,

unless a pardon has been issued;

(b) has been found guilty of a disciplinary finding in another jurisdiction;

(c) has had a licensing sanction imposed by another jurisdiction; or

(d) is the subject of an investigation or disciplinary process in any jurisdiction,

or it is otherwise required pursuant to this Act or the regulations, the Executive Director may, by such notice as the Executive Director prescribes, require the person to attend a hearing to establish why the person should not be subject to review by the Complaints Committee.

(2) For the purpose of a hearing pursuant to subsection (1), the Complaints Committee may take any of the actions authorized to be taken by the Committee pursuant to this Act or the regulations.

(3) For the purpose of subsection (1), a certificate of conviction of a member is conclusive evidence that the member has committed the offence stated in the certificate, unless it is proved that the conviction has been quashed or set aside.

(4) When a person holding a licence to practice nursing meets the criteria pursuant to subsection (1), the person shall report the matter to the Executive Director immediately.

44 (1) All complaints received or under investigation, all information gathered in the course of the professional conduct process and all proceedings and decisions of the Complaints Committee, the Fitness to Practice Committee and the Professional Conduct Committee that are not open to or available to the public in accordance with this Act or the regulations must be kept confidential by the person or persons who possess such information.

(2) Notwithstanding subsection (1), where it is consistent with the objects of the College,

(a) the Executive Director, on the recommendation of the Complaints Committee, the Fitness to Practise Committee or the Professional Conduct Committee, may disclose to law enforcement authorities any information about possible criminal activity on the part of a member that is obtained during an investigation pursuant to this Act;

(b) the Complaints Committee, the Fitness to Practise Committee or the Professional Conduct Committee may authorize the Executive Director to release specific information to a specific person or persons;

(c) the Executive Director may disclose information with respect to the complaint or a matter before the Fitness to Practice Committee to an extra-provincial nursing regulatory body if it is relevant and concerns the fitness of the member for membership in the extra-provincial nursing regulatory body; and

(d) the Executive Director may disclose information with respect to a complaint for purposes of administration of this Act or to comply with the objects of the College.

(3) A witness in any legal proceeding, whether a party to the proceeding or not, is excused from answering any question as to any proceedings of the Complaints Committee, the Fitness to Practice Committee, the Professional Conduct Committee or the Re-instatement Committee, and is excused from producing any report, statement, memorandum, recommendation, document or information prepared for the purpose of the professional conduct process, including any information gathered in the course of an investigation or produced for the Complaints Committee, the Fitness to Practise Committee, the Professional Conduct Committee or the Re-instatement Committee.

(4) Subsection (3) does not apply to documents or records that have been made available to the public by the College.

(5) Unless otherwise determined by a court of competent jurisdiction, a decision of the Complaints Committee or the Professional Conduct Committee is not admissible in a civil proceeding other than an appeal or a review pursuant to this Act.

45 (1) The Council shall appoint a Professional Conduct Committee comprised of such number of members and public representatives as determined by the Council.

(2) The Council shall appoint a Chair and a Vice-chair of the Professional Conduct Committee.

(3) The Vice-chair shall act as chair in the absence of the Chair.

(4) Whenever for any reason neither the Chair nor the Vice-chair are available for the purpose of subsections (5), (6) and (7), the Council may, for such purpose, appoint a member of the Professional Conduct Committee as chair of the Committee.

(5) The Chair of the Professional Conduct Committee shall appoint a panel of five persons from the Committee, at least one of whom must be a public representative, to act as the Professional Conduct Committee for purposes of the professional conduct process.

(6) The Chair of the Professional Conduct Committee may sit on the panel and shall act as the chair of the panel in this event.

(7) Where the Chair of the Professional Conduct Committee is not appointed to the panel, the Chair shall appoint a chair for such panel.

(8) Any three persons from the panel appointed pursuant to subsection (5), regardless of whether such persons are members or public representatives, constitute a quorum of the Professional Conduct Committee.

(9) No person on the Professional Conduct Committee may concurrently serve on the Complaints Committee or the Fitness to Practice Committee.

(10) Failure of one or more Professional Conduct Committee members to receive any notice of a meeting does not invalidate the proceedings at the meeting, and nothing precludes Committee members from waiving notice of meetings.

(11) All Professional Conduct Committee decisions require the vote of a majority of the panel of the Committee appointed pursuant to subsection (5), or the quorum of such panel in the event the full panel is not sitting.

(12) Where a proceeding is commenced before the Professional Conduct Committee and the term of office of any person sitting on the Committee expires, that person may remain part of the Committee until the proceeding is concluded.

46 **(1)** Where the Complaints Committee refers a matter to the Professional Conduct Committee, the Executive Director shall fix a date, time and place for holding a hearing, which must commence not later than ninety days from the date of the referral by the Complaints Committee or such later date as the respondent and the College may agree or the Professional Conduct Committee may order following an opportunity for submissions from both parties as to such date.

(2) A notice of hearing, containing such information as required by the regulations, must be forwarded by the Executive Director to the respondent and the complainant at least thirty days prior to the hearing.

47 At any stage of the professional conduct process, any document required to be served on or provided to a respondent or any other individual is deemed to be served or provided if

(a) the intended recipient or their counsel acknowledges receipt of the document;

(b) a registered mail receipt is provided from Canada Post;

(c) an affidavit of service on the respondent is provided; or

(d) the College provides evidence satisfactory to the Professional Conduct Committee that all reasonable efforts to effect service have been exhausted.

48 Where the Complaints Committee refers a matter to the Professional Conduct Committee, the College, before the commencement of a hearing by the Professional Conduct Committee, may enter into a settlement proposal with the respondent, which proposal must be dealt with in accordance with the regulations.

49 Each person on the Professional Conduct Committee has all the rights, powers and privileges of a commissioner appointed pursuant to the *Public Inquiries Act*.

50 **(1)** A proceeding held by the Professional Conduct Committee must be conducted in accordance with the regulations.

(2) In a proceeding before the Professional Conduct Committee, the parties have the right to

(a) be represented by legal counsel, a union representative or another representative;

(b) the opportunity to present evidence and make submissions, including the right to cross-examine witnesses; and

(c) receive written reasons for a decision within a reasonable time.

(3) Evidence is not admissible before the Professional Conduct Committee unless the opposing party has been given, at least ten days before a hearing,

(a) in the case of written or documentary evidence, an opportunity to examine the evidence;

(b) in the case of evidence of an expert, a copy of the expert's written report or, where there is no written report, a written summary of the evidence; or

(c) in the case of evidence of a witness, the identity of the witness.

(4) Notwithstanding subsection (3), the Professional Conduct Committee may, in its discretion, allow the introduction of evidence that would be otherwise inadmissible under subsection (3) and may make directions it considers necessary to ensure that a party is not prejudiced.

51 (1) Where the Professional Conduct Committee finds professional misconduct, conduct unbecoming the profession, incompetence or incapacity, the Committee shall dispose of the matter or matters in accordance with the regulations.

(2) Where the Professional Conduct Committee has revoked the registration or licence of a member, the Committee shall determine whether the member is entitled to apply for re-instatement of the registration or licence, or whether the revocation is final.

(3) Where the Professional Conduct Committee determines that a member whose registration or licence has been revoked may apply for re-instatement, the Committee shall determine the time when the member may apply for re-instatement, which cannot be earlier than two years from the date of the Committee's decision.

52 (1) The Council shall appoint a Re-instatement Committee, comprised of not less than three and not more than five members of Council, at least one of whom must be a public representative.

(2) The Council shall appoint the Chair of the Re-instatement Committee.

(3) The Re-instatement Committee shall, in the circumstances set out in this Act and the regulations, review applications for re-instatement of registration and licence and perform such other duties as set out in this Act and the regulations.

(4) A quorum of the Re-instatement Committee consists of any three members of the Committee, regardless of whether the members are members or public representatives.

(5) Applications for re-instatement shall proceed in accordance with the regulations.

(6) Where a member's registration or licence has been re-instated pursuant to this Section, the Re-instatement Committee, in its discretion, shall determine whether publication of the re-instatement is required in the interest of the public.

(7) The Re-instatement Committee has all the powers conferred by this Act and the regulations in the discharge of its functions as well as the powers, privileges and immunities of a commissioner appointed pursuant to the *Public Inquiries Act.*

(8) In a proceeding before the Re-instatement Committee, a member has the right to

(a) be represented by legal counsel, a union representative or another representative at the member's expense;

(b) disclosure of any information to be provided to the Committee; and

(c) a reasonable opportunity to present a response and make submissions.

(9) Evidence is not admissible before the Re-instatement Committee unless, at least ten days before the hearing, the opposing party has been given

(a) in the case of written or documentary evidence, an opportunity to examine the evidence;

(b) in the case of evidence of an expert, a copy of the expert's written report or, where there is no written report, a written summary of the evidence; and

(c) in the case of evidence of any other witness, the identity of the witness.

(10) Notwithstanding subsection (9), the Re-instatement Committee may, in its discretion, allow the introduction of evidence that is otherwise inadmissible under subsection (9) and shall make directions it considers necessary to ensure that a party is not prejudiced.

53 (1) Subject to any publication bans in existance, where a licensing sanction has been issued by the Complaints Committee or the Professional Conduct Committee, the Executive Director shall

(a) make such entries on the records of the College and on the licence of the member as set out in the regulations;

(b) publish such information on the website of the College and in official publications of the College as set out in the regulations;

(c) notify other nursing licensing bodies as set out in the regulations; and

(d) provide such information to individuals or the public as set out in the regulations.

(2) Where the Professional Conduct Committee dismisses a matter, the Committee shall disclose its decision in such manner as it determines.

54 (1) Where the period of suspension of a member has expired, the conditions imposed on the member have been satisfied or the restrictions imposed on the member have been removed, the Executive Director shall restore the licence to practise nursing to the member in the form it existed before the imposition of the suspension, conditions or restrictions, if the member otherwise meets the criteria for the issuing of a licence, but where the licence has expired, the member shall pay the prescribed fee for renewal of the licence before its re-issue.

(2) Where action has been taken pursuant to subsection (1), the Executive Director shall

(a) make the appropriate entries in the records of the College;

(b) where registering bodies in other Canadian nursing jurisdictions had previously been informed of the suspension, conditions or restrictions, notify such registering bodies of the lifting of the suspension, conditions or restrictions;

(c) notify such other persons as directed by the committee that initially imposed the suspension, conditions or restrictions.

55 **(1)** For the purpose of the execution of their duties under this Act, the College or any committee of the College, may retain such legal or other assistance as the College or the committee thinks necessary or proper.

(2) Where authorized by this Act or the regulations, the costs of such legal or other assistance may be included, in whole or in part, as costs ordered by the committee.

56 **(1)** A party may appeal on any point of law from the findings of the Professional Conduct Committee to the Nova Scotia Court of Appeal.

(2) The notice of appeal must be served upon the other party not later than thirty days after service of the decision of the Professional Conduct Committee.

(3) The record on appeal from the findings of the Professional Conduct Committee consists of a copy of the transcript of the proceedings, the decision of the Committee and the evidence before the Committee certified by the Chair of the Committee.

(4) The *Civil Procedure Rules*, governing appeals from the Supreme Court of Nova Scotia to the Nova Scotia Court of Appeal, that are not inconsistent with this Act, apply *mutatis mutandis* to appeals to the Court of Appeal pursuant to this Section.

(5) Where a matter is appealed to the Nova Scotia Court of Appeal pursuant to this Section, the decision of the Professional Conduct Committee takes effect immediately, unless the Court of Appeal grants a stay of any order made pursuant to this Act where, in its discretion, it deems fit.

PART IV

NURSE PRACTITIONERS

57 **(1)** The Executive Director shall endorse a licence to practise nursing, other than a temporary licence, to indicate that the holder of such licence is entitled to practise as a nurse practitioner, where such registered nurse meets the criteria for entry in the nurse practitioner roster as set out in the regulations.

(2) The Executive Director may impose conditions or restrictions on the nurse practitioner's licence with the consent of the member where it is in the public interest to do so.

(3) Where the Executive Director imposes conditions or restrictions pursuant to subsection (2), the Excutive Director shall issue a nurse practitioner's licence with conditions or restrictions.

58 Where an applicant has been refused the endorsement on the applicant's licence to practise nursing pursuant to subsection 57(1), the Executive Director shall give written reasons and the applicant may, by written notice, appeal that decision to the Registration Appeal Committee within thirty days of receipt of the written notice.

59 **(1)** Where a person

(a) is registered or licensed as a nurse practitioner or equivalent in another jurisdiction that is recognized by the Council; or

(b) satisfies the Nurse Practitioner Committee that the applicant possesses the necessary competencies to practise as a nurse practitioner,

and it is otherwise consistent with the objects of the College but impractical to issue a nurse practitioner's licence, the Executive Director may approve or refuse an application for a temporary licence (nurse practitioner) and shall notify the applicant accordingly.

(2) A temporary licence (nurse practitioner) issued pursuant to subsection (1) shall be issued for a specified period of time, not to exceed six months in total.

(3) The Executive Director may impose conditions or restrictions on the temporary licence (nurse practitioner) where such conditions or restrictions are necessary in the interest of the public.

(4) Where conditions or restrictions are imposed by the Executive Director pursuant to subsection (3), the Executive Director shall issue to the applicant a temporary licence (nurse practitioner) with conditions or restrictions.

(5) Where the Executive Director imposes conditions or restrictions pursuant to subsection (3), those conditions or restrictions are not considered to be licensing sanctions.

(6) The decision of the Executive Director respecting the issue of a temporary licence (nurse practitioner) is final.

60 (1) Subject to the regulations, no person shall take or use the designation "nurse practitioner", "N.P." or "NP", or any derivation or abbreviation thereof that is not otherwise protected by an existing Act, n the Province either alone or in combination with other words, letters or descriptions to imply that the person is entitled to practise as a nurse practitioner unless the person is the holder of a nurse practitioner's licence or a nurse practitioner's licence with conditions or restrictions.

(2) No person shall engage in the practice of a nurse practitioner in the Province unless the person holds a nurse practitioner's licence or a temporary licence (nurse practitioner), with or without conditions or restrictions.

(3) Subject to subsection (4), no person shall engage in the practice of a nurse practitioner, unless such practice

(a) is consistent with the standards for nurse practitioners; and

(b) is within that nurse practitioner's individual scope of practice.

(4) Unless otherwise authorized pursuant to this Act or the regulations or any other law, no nurse practitioner shall practise outside the scope of practice of the profession.

(5) Notwithstanding subsection (2), a student enrolled in a nurse practitioner program may engage in the practice of a nurse practitioner if such practice is authorized to be performed by the administrators of the program.

(6) Where a nurse practitioner is changing practice settings to practise with a different client population, the nurse practitioner shall ensure that the person has the appropriate competencies to meet the standards of practice for nurse practitioners in the different practice setting.

(7) Where a nurse practitioner is changing practice settings pursuant to subsection (6), the nurse practitioner shall advise the Nurse Practitioner Committee of the change in practice settings.

(8) Every person, other than a client, who employs a person in the practice of a nurse practitioner and every agency or registry that procures employment for a person in the practice of a nurse practitioner shall

(a) ensure that the person, at the time of employment and each year employed thereafter, holds a current nurse practitioner's licence, a nurse practitioner's licence with conditions or restrictions or a temporary licence (nurse practitioner) under this Act;

(b) where the person's employment is terminated or the person resigns because of allegations of professional misconduct, conduct unbecoming the profession, incompetence or incapacity, report the matter to the Executive Director forthwith and provide a copy of the report to the person whose employment is terminated;

(c) where a nurse practitioner is changing practice settings to practise with a different client population, ensure that the nurse practitioner is able to meet the standards of practice for nurse practitioners by developing additional competencies to enable the nurse practitioner to practise competently, ethically and safely in the different practice setting; and

(d) where a nurse practitioner is changing practice settings pursuant to clause (c), report the change of practice setting to the Nurse Practitioner Committee.

(9) Every person other than a client who employs an incorporated entity engaged in the practice of a nurse practitioner and every agency or registry that procures employment for an incorporated entity in the practice of a nurse practitioner shall comply with the provisions of subsection (8) with respect to each nurse practitioner who is in the employ of the incorporated entity.

61 (1) The Council shall appoint an Interdisciplinary NP Practice Review Committee consisting of such representation as set out in the regulations.

(2) Council shall appoint from amongst the persons on the Interdisciplinary NP Practice Review Committee a Chair, who shall call and preside over required meetings of the Committee.

(3) The Interdisciplinary NP Practice Review Committee shall perform the functions set out in this Act, the regulations and the by-laws.

(4) A quorum of the Interdisciplinary NP Practice Review Committee consists of such members of the Committee as set out in the regulations.

62 (1) The Council shall appoint a Nurse Practitioner Committee consisting of such representation as determined by Council.

(2) Council shall appoint from amongst the persons on the Nurse Practitioner Committee a Chair, who shall call and preside over required meetings of the Committee.

(3) The Nurse Practitioner Committee shall perform the functions set out in this Act, the regulations and the by-laws.

(4) A quorum of the Nurse Practitioner Committee consists of such members of the Committee as set out in the regulations.

63 (1) In this Section, "client records" includes all documents, charts, laboratory specimens, x-rays, photographic film or any other form of record relating to the clients of a nurse practitioner or a self-employed registered nurse.

(2) Where adequate provision has not been made for the protection of the client's interests and a nurse practitioner or a self-employed registered nurse

(a) dies, disappears, is imprisioned, leaves the Province or surrenders the persons' licence to practise nursing;

(b) is struck off the Register or is the subject of a suspension of licence;

(c) has had a licensing sanction imposed; or

(d) neglects the practice of the nurse practitioner or self-employed nurse,

the College may, with or without notice as the court directs, request the court to appoint a custodian who is a physician, a nurse practitioner or a self-employed registered nurse to take possession of the client records.

(3) A custodian appointed pursuant to subsection (2) shall

(a) hold and protect all client records taken into custody; and

(b) distribute copies of the client records, as may be appropriate, to the physicians, nurse practitioners or nurses of the clients concerned, and to the duly appointed representatives of the clients, or the clients themselves, unless there are reasonable grounds to believe it would not be in the best interest of the client to make that information available, subject to such fees as the court may direct or the regulations may prescribe.

(4) In an order made pursuant to subsection (2), or in a subsequent order made on the application of the College or custodian, with or without notice as the court directs, the court may

(a) authorize the custodian to employ professional assistance to carry out the custodian's duties;

(b) direct any sheriff to seize, remove and place in the possession of the custodian client records;

(c) where there are reasonable grounds to believe that any client records may be found in any premises, safety deposit box or other receptacle, direct the sheriff to enter the premises or open the safety deposit box or other receptacle;

(d) direct the owner of any premises, or person in possession of any premises, or any bank or other depository of client records to deal with, hold, deliver or dispose of such client records as the court directs;

(e) give directions to the custodian as to the disposition of client records;

(f) make provision for the remuneration, disbursements and indemnification of the custodian in the course of the custodian's duties;

(g) make provision for the discharge of a custodian either before or after the completion of the responsibilities imposed upon the custodian by any order made under this Section; and

(h) give such further directions as the court considers are required in the circumstances.

(5) Unless the court otherwise directs, it is sufficient for the custodian to give notice by newspaper advertisement to clients, physicians, nurse practitioners, nurses or the general public that the custodian has possession of the client records.

(6) Subject to any order of the court, or where one year has passed from the date of the court order appointing the custodian, whichever is earlier, the custodian shall report to the Council which may discharge the custodian or make any order it deems appropriate regarding any patient records remaining in the hands of the custodian, and the custodian's compliance with the order of the Council discharges the custodian in respect of those client records affected.

(7) Unless otherwise ordered pursuant to subsection (6), upon discharge of a custodian pursuant to subsection (6) or (9), the College shall take into permanent custody client records and assume the responsibilities of a custodian as provided in subsection (3).

(8) The college may destroy records after the passage of a minimum period of time as ordered by the court or as set by regulation.

(9) The court may, upon the application of the College made either *ex parte* or on such notice as the court directs, remove a custodian from office and, where the court deems it expedient, appoint another custodian in the custodian's place, and may include in such order such further directions as are required in the circumstances.

(10) A nurse practitioner or a self-employed registered nurse in respect of whom an order has been made pursuant to this Section may, after giving notice to the College and to the custodian, apply to the court to vary or set aside an order made pursuant to this Section and to direct the custodian to place all or part of the client records back into the possession of the member upon such terms as may be just.

(11) The court may give directions as to service of any notice required or order made pursuant to this Section.

(12) No action or damages lies against the College, the Council or any committee, member, officer or employee of the College for anything done or omitted to be done in good faith pursuant to this Section, or against a custodian or any other person acting in good faith pursuant to this Section or any order issued under this Section.

(13) This Section applies *mutatis mutandis* to former members of the College.

PART V

OTHER COMMITTEES

64 (1) The Council shall appoint an Education Advisory Committee, the membership of which shall be determined by the Council, at least two of whom shall be public representatives.

(2) The Council shall appoint the Chair of the Education Advisory Committee.

(3) The term of office of members of the Education Advisory Committee shall be determined by the Council.

(4) A majority of the members of the Education Advisory Committee constitutes a quorum of the Committee.

(5) The Education Advisory Committee shall perform such functions as are set out in this Act, the regulations and the by-laws.

65 (1) The Education Advisory Committee shall advise and make such recommendations to the Council as will enable the Council to

(a) establish standards for nursing education programs, nurse practitioner programs and registered nurse re-entry programs;

(b) approve nursing education programs, nurse practitioner programs and registered nurse re-entry programs that meet the standards as approved by the Council;

(c) deny or withdraw approval of nursing education programs, nurse practitioner programs, and registered nurse re-entry programs that do not meet the standards as approved by the Council;

(d) approve, conditionally approve or deny approval of new nursing education programs, nurse practitioner programs, registered nurse re-entry programs, nurse practitioner re-entry programs or changes in such programs in accordance with the standards as approved by the Council; and

(e) pursuant to clause 20(3)(d), approve the criteria other nursing programs must meet in order to allow students of such programs to engage in the practice of nursing.

(2) In addition to the roles outlined in subsection (1), the Education Advisory Committee shall

(a) ensure that an assessment of nursing education programs in the Province is conducted at time intervals approved by Council, to determine compliance with standards approved by Council;

(b) ensure that an assessment of nurse practitioner programs in the Province is conducted at intervals approved by Council, to determine compliance with standards approved by Council;

(c) ensure that an assessment of registered nurse re-entry programs or nurse practitioner re-entry programs in the Province is conducted at intervals approved by Council to determine compliance with standards approved by Council; and

(d) perform such other functions as designated in this Act and the regulations.

66 All nursing education programs, nurse practitioner programs and registered nurse re-entry programs approved by the College immediately before the coming into force of this Act are deemed to be approved by Council pursuant to this Act until the approval is withdrawn or expires.

PART VI

PROFESSIONAL INCORPORATION

67 Subject to any regulations made pursuant to Section 8, nothing in this Act prevents the incorporation of a registered nurse or a nurse practitioner, but every registered nurse and nurse practitioner continues to be personally responsible for compliance with this Act and the regulations, notwithstanding any incorporation.

68 All persons who carry on the practice of nursing or the practice of a nurse practitioner as, by, through or on behalf of an incorporated entity are liable in respect of acts or omissions done or omitted to be done by them in the course of their practice to the same extent and in the same manner as if such practice were carried on by them as an individual or a partnership carrying on the practice of the profession.

69 Where a member is engaged in the practice of nursing or the practice of a nurse practitioner as an incorporated entity, the existence of the incorporated entity does not affect, modify or limit any law or standard applicable to the confidential or ethical relationship between a registered nurse and the registered nurse's client.

70 All shareholders, directors, officers and employees of an incorporated entity engaged in the practice of nursing or the practice of a nurse practitioner are compellable witnesses in any proceedings pursuant to this Act.

71 Where the conduct of a registered nurse is the subject of a complaint, investigation or inquiry and the registered nurse was an officer, director, shareholder or employee of an incorporated entity at the time the conduct occurred, any power of inspection, investigation or inquiry that may be exercised in respect of the registered nurse or the registered nurse's records may be exercised in respect of the incorporated entity or its records.

72 (1) Every incorporated entity engaged in the practice of nursing or the practice of a nurse practitioner that contravenes this Act or the regulations is guilty of an offence and is liable to the same penalties as any person who is guilty of an offence under this Act.

(2) Sections 29 and 30 apply to all incorporated entities engaged in the practice of nursing or the practice of a nurse practitioner.

PART VII

GENERAL

73 **(1)** A member has a duty to report to the Executive Director if the member has reasonable grounds to believe that another member

(a) has engaged in professional misconduct, incompetence or conduct unbecoming the profession;

(b) is incapacitated; or

(c) is practising in a manner that otherwise constitutes a danger to the public.

(2) A member has a duty to report to the regulator of another health profession if the member has reasonable grounds to believe that a member of that health profession

(a) has engaged in professional misconduct, incompetence or conduct unbecoming the profession;

(b) is incapacitated; or

(c) is practising in a manner that otherwise constitutes a danger to the public.

(3) No action for damages or other relief lies against a member for any report made pursuant to subsections (1) or (2) if such report was made in good faith.

74 Any fine or costs ordered to be paid pursuant to this Act or the regulations is a debt due to the College recoverable by civil action, in addition to any other remedy available to the College for non-payment of a fine or costs.

75 **(1)** No action for damages or other relief lies against the College, the Council, the persons on the Council, committees or subcommittees of the College or Council, or the persons on the committees or subcommittees or the Executive Director, officers, agents or employees of the College

(a) for any act or failure to act, or any proceeding initiated or taken, in good faith under this Act, or in carrying out the duties or obligations under this Act; or

(b) for any decision, order or resolution made or enforced in good faith under this Act.

(2) No action lies against any person for the disclosure of any information or any document or anything therein pursuant to this Act unless the disclosure is made with malice.

(3) No member of the College, the Council, committees or subcommittees of the College or Council, or any officer, agent or employee thereof is personally liable for any of the debts or liabilities of the College, unless the person expressly agrees to be liable.

76 **(1)** For greater certainty, a complaint made pursuant to the former Act shall continue to be proceeded with in accordance with this Act as nearly as circumstances permit.

(2) Upon the coming into force of this Act, any matter pending before a Complaints Committee that would properly form the subject of a matter to be heard by the Fitness to Practise Committee pursuant to this Act must be transferred to the Fitness to Practise Committee for determination and processing.

(3) Upon the coming into force of this Act, where a hearing has not commenced, any matter pending before a Professional Conduct Committee that would properly form the subject of a matter to be heard by the Fitness to Practise Committee pursuant to this Act, may, by agreement of the College and the respondent, be transferred to the Fitness to Practise Committee for determination and processing.

77 Whenever for any reason a quorum of members of any committee is not available for a meeting or hearing, the Council may, for the purpose of such meeting or hearing, appoint to the committee such additional members as are needed for a quorum.

78 Nothing in this Act prohibits

(a) the practice by a person of medicine, dentistry, pharmacy or optometry or, subject to clauses (b) and (c), any other health discipline recognized by statute;

(b) the practice by registered nurses and nurse practitioners of acts approved for practice pursuant to the *Medical Act*;

(c) the practice of practical nursing by a person who is a licensed practical nurse, registered and currently licensed under the *Licensed Practical Nurses Act*;

(d) the provision of services for compensation, other than the practice of registered nursing, at an institution or place that is subject to or providing a service pursuant to the *Children and Family Services Act*, the *Day Care Act*, the *Homemakers' Services Act*, the *Homes for Special Care Act* or the *Social Assistance Act*;

(e) caring for someone in a private residence with or without compensation by a person who has not assumed to be or hold himself or herself out to be a registered nurse; or

(f) the right of employees to engage in a lawful strike.

79 The former Act is repealed.

80 This Act comes into force on such day as the Governor in Council orders and declares by proclamation.